

SENATE BILL 442

By Lowe

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 40 and Title 55, relative to restitution.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-219, is amended by deleting subsections (d) and (e) and substituting instead the following:

(d)

(1) If a defendant who is ordered to pay child maintenance under this section is incarcerated and unable to pay the required maintenance, then the defendant must have up to one (1) year after the release from incarceration to begin payment, including entering a payment plan to address any arrearage. If a defendant's child maintenance payments are set to terminate but the defendant's obligation is not paid in full, then the child maintenance payments continue until the entire arrearage is paid.

(2) Notwithstanding § 40-35-304, a surviving parent or guardian who is awarded restitution pursuant to this section may convert the restitution order to a civil judgment at any time by filing a certified copy of the restitution order with an appropriate civil court having jurisdiction over the total amount of restitution ordered. The civil court may convert the restitution order into a civil judgment in the manner provided in § 40-35-304(h).

(e)

(1) If the surviving parent or guardian of the child brings a civil action against the defendant prior to the sentencing court ordering child maintenance

payments as restitution and the surviving parent or guardian obtains a judgment in the civil suit, then any maintenance ordered must be offset by the amount of damages that has been received by the surviving parent or guardian prior to the sentencing court entering an order of restitution.

(2) If the court orders the defendant to make child maintenance payments as restitution under this section and the surviving parent or guardian subsequently brings a civil action and obtains a judgment, then the child maintenance order must be offset by the amount of damages received by the surviving parent or guardian pursuant to the civil action.

SECTION 2. This act takes effect July 1, 2023, the public welfare requiring it, and applies to restitution orders entered on or after that date.